

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

Vernard Buckman, Jr.,	)	Case No. 7:18-cv-02853-DCC
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Christopher B. Morrow,	)	
	)	
Defendant.	)	
_____	)	

This matter is before the Court on Plaintiff's Amended Complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. ECF No. 7. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Thomas E. Rogers, III, for pre-trial proceedings and a Report and Recommendation ("Report"). On December 10, 2018, the Magistrate Judge issued a Report recommending that the Amended Complaint be summarily dismissed. ECF No. 15. Plaintiff was advised of his right to file objections. Plaintiff failed to file objections to the Report, and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or

recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. This action is **DISMISSED** without prejudice and without issuance of service of process.<sup>1</sup>

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

January 8, 2019  
Spartanburg, South Carolina

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<sup>1</sup> The Fourth Circuit has held a dismissal without prejudice to be final and appealable when dismissed because claims were barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). *Goode v. Cent. Virginia Legal Aid Soc’y, Inc.*, 807 F.3d 619, 624 (4th Cir. 2015) (citing *Young v. Nickols*, 413 F.3d 416, 418 (4th Cir. 2005)). Also, the Court has the inherent power to manage its docket and the nature of a dismissal is a matter for the court’s discretion. *Adbul-Mumit v. Alexandria Hyundai, LLC*, 896 F.3d 278 (4th Cir. 2018). Moreover, the Magistrate Judge, in a prior order in this case (ECF No. 5), gave Plaintiff notice and opportunity to file an Amended Complaint to attempt to cure any deficiencies and Plaintiff availed himself of such opportunity.

### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.